Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

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VHA DIRECTIVE 99-014

April 1, 1999

APPLICATION OF THIRD-PARTY REIMBURSEMENTS TO VETERAN COPAYMENTS

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides instructions for the application of recoveries from the third-party health plans (both Medigap and non-Medigap) of insured veterans responsible for Department of Veterans Affairs (VA) copayments resulting from VA-furnished medical care.

2. POLICY: Veterans who incur VA medical care deductible and copayment obligations and who have health care insurance should be allowed the benefit of that insurance, to the extent of and consistent with the available plan coverage, toward the satisfaction of their VA obligation.

3. ACTION

a. **Medigap (Medicare Supplemental) Insurance.** Reimbursement from health plans that either supplement the Medicare program or coordinate plan benefits with Medicare should be applied, without deduction, to the insured veteran's VA copayment (including for purposes of this directive, means test copayments, per diem copayments, outpatient copayments and prescription copayments) before application of those proceeds to the third-party carrier's debt. ***NOTE:*** *See specific instructions and examples contained in Attachment A.*

b. **Non-Medigap Insurance.** Reimbursement from health plans of veterans who are not Medicare-eligible should be applied to the portion of the veteran's VA copayment obligation (after subtracting any plan deductibles or copayments) that corresponds to the same percentage as the plan's coverage liability for allowable charges. ***NOTE:*** *See the specific instructions contained in Attachment B.*

c. **Tort feasor and Workers' Compensation Exception.** Cases where VA asserts its bill for medical care in a tort feasor or workers' compensation case, and also against the veteran's health plan for that same care, often present complex questions about third-party proceeds. The manner in which proceeds will be applied in such cases generally will depend on the nature, scope, and intent of the resolution of the tort feasor and workers' compensation claim.

(1) For instance, a judgment or a settlement of a tort feasor or workers' compensation case usually requires a compromise of all of the mutual interests of the parties. Such a settlement, therefore, may require refund of any VA copayments paid by the veteran, or waiver of any pending unpaid VA copayments. Often VA copayments that have been remitted can be considered in the overall settlement, obviating the need for refund. Pending copayments usually should be waived.

(2) Furthermore, when reimbursement also has been received from a third-party health plan in such cases, coordination of benefit requirements in many plans, as well as State law, may

create an obligation to refund. In all such cases, the Regional Counsel who has jurisdiction of tort feasor and workers' compensation claims should be consulted for determination of these issues.

NOTE: *Regional Counsels should also be consulted for a determination of the issues in those instances where VA's care, or the injury that led to such care, is likely to result, or has resulted, in a claim for damages against the United States under the Federal Tort Claims Act.*

d. **Copayment Billing.** Effective with the date of this directive, insured veterans responsible for VA copayment(s) for their VA health care will not be billed those copayment(s) until the veteran's health plan either:

(1) Remits payment in an amount that does not fully satisfy the veteran's VA copayment debt for that episode of care, in which case the veteran remains responsible for the open balance;

(2) Denies payment, in which case the veteran remains responsible for the entire VA copayment debt for that episode of care; or

(3) Fails to respond within ninety days after submission of VA's claim either by remitting payment or requesting additional information (such as VA medical records), in which case the veteran remains responsible for the entire VA copayment for that episode of care. Any subsequent reimbursements received from such a health plan, however, must always be applied to the veteran's debt in accordance with paragraph 3 of this directive, with appropriate refunds.

4. REFERENCE: General Counsel Opinion, Application of Health Insurance Payments to Veterans' Copayment Obligations (VAOPGCPREC 3-96) dated May 23, 1996.

5. FOLLOW-UP RESPONSIBILITY: VHA Chief Financial Officer (17) is responsible for the contents of this directive.

6. RESCISSIONS: This VHA Directive expires April 30, 2004.

S/ by Robyn Nishimi, Ph.D. for
Kenneth W. Kizer, M.D., M.P.H.
Under Secretary for Health

Attachments

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ATTACHMENT A

APPLICATION OF PAYMENTS FROM MEDIGAP INSURANCE REIMBURSEMENTS

The following procedural instructions and guidance applies third-party reimbursement to copayment obligations of veterans with third-party health insurance coverage through either a Medigap supplemental policy or a policy that coordinates available benefits for Medicare-eligible retirees with the benefits available to those retirees under Medicare. For convenience, all such policies are referred to as Medicare supplemental plans.

1. All reimbursements received from a Medicare supplemental plan should first be applied to the veteran's copayment debt(s), including means test copayments, per diem copayments, outpatient copayments and prescription copayments. If any reimbursement amount remains, it will be applied to the outstanding third-party receivable. After the appropriate insurance reimbursement has been credited to the outstanding third-party receivable, a contract adjustment will be used to reduce the outstanding balance of the third-party receivable to zero and the bill closed. If application of the third-party receivable to the veteran's Department of Veterans Affairs (VA) copayment debt does not extinguish the debt for that episode of care, any open balance remains the veteran's responsibility and the veteran will be billed.

2. To avoid unnecessary billing, facilities will, to the extent supported by the Integrated Billing software, place means test charges on hold for a period not to exceed 90 days (see par. 4 of the basic directive).

3. Reimbursement payments should be applied in the following order: inpatient means test copayments, per diem copayments, outpatient copayments, and, if covered, prescription copayments. Any remaining payment will then be applied to the third-party debt.

4. In instances where Medicare-eligible insured veterans have additional coverage for care or services not covered by Medicare, such as medications or long-term nursing care, for which the Medicare supplemental plan would have primary liability in the private sector, the plan also has primary liability to VA for <u>any</u> such care. Since reimbursements under such coverage do not supplement Medicare, they are applied in the same fashion as non-Medigap collections pursuant to the guidance contained in Attachment B of this Directive.

5. **<u>Medicare Supplemental Examples</u>.** For illustration purposes in the following examples, except as noted, the fiscal Year (FY) 98 billing rates and copayment rates were used. In all of these examples, the veteran has third-party health plan coverage through either a Medigap supplemental policy, or a policy that coordinates available benefits for Medicare-eligible retirees with the benefits available to those retirees under Medicare. For convenience, all such policies are referred to as Medicare supplemental plans.

a. **Example 1.** An insured Medicare-eligible veteran incurs a hospital stay under medical service for 10 days. The insurance carrier is billed for 10 days of medical care at $1,208 per day totaling $12,080. A third-party receivable is established in the amount of $12,080 and a claim submitted to the insurance carrier. The veteran's copayment charges of $764 and per diem charges of $100 are placed on hold pending receipt of reimbursement from the insurance carrier.

(1) Reimbursement is received from the carrier in the amount of $764 for that carrier's liability supplementing Part A of Medicare. The means test and per diem copayment charges will be released to the accounts receivable package. The $764 payment is applied to the veteran's means test copayment and the bill balance of $100 for the per diem copayments is released to the veteran for payment. The third-party receivable is contract adjusted to zero.

(2) Any subsequent reimbursements received from that veteran's health plan for VA's professional fees (the plan's liability for supplementing Part B of Medicare) also must be applied to the veteran's debt, with refunds as appropriate.

b. **Example 2.** An insured Medicare-eligible veteran incurs a hospital stay under medical service for 10 days. The insurance carrier is billed for 10 days of medical care at $1,208 per day totaling $12,080. A third-party receivable is established in the amount of $12,080. The veteran's copayment charges of $764 and per diem charges of $100 are placed on hold pending receipt of the reimbursement from the carrier.

(1) Reimbursement is received from the carrier in the amount of $1,054. This payment represents the carrier's liability under the coverage supplementing Part A of Medicare ($764) in addition to 20 percent of the charge for VA's professional fees (the carrier's calculation of its liability under the coverage supplementing Part B of Medicare), for a total payment of $1,054.

(2) The means test and per diem copayment charges will be released to the accounts receivable package. Since all payments from Medigap carriers are applied first to the veteran's debt, $764 is applied to the veteran's means test copayment and $100 is applied to the veteran's per diem copayment, which eliminates the veteran's debt for that episode of care. The remainder of the carrier's payment of $190 is applied to the third-party receivable and the balance is contract adjusted to zero.

c. **Example 3.** An insured Medicare-eligible veteran has an outpatient visit. A bill to the veteran's carrier is established in the amount of $229. The veteran's copayment charge of $45.80 is placed on hold pending receipt of reimbursement from the carrier. Reimbursement is received from the carrier in the amount of $45.80. This payment is 20 percent of VA's outpatient charge. The means test copayment charge is released to the accounts receivable package. Since all payments from Medigap carriers are applied first to the veteran's debt, the $45.80 payment is applied in full to extinguish the veteran's means test copayment. The third-party debt is contract adjusted to zero.

d. **Example 4.** An insured Medicare-eligible veteran is referred for outpatient care. In this example, assume that VA's proposed "reasonable charges" regulation has been implemented. Following treatment, a bill is issued to the veteran's Medicare supplemental plan for $30. The veteran's copayment charge of $45.80 is placed on hold pending receipt of reimbursement from the plan. A $6 reimbursement is received from the plan, which is 100 percent of the plan's liability (assuming Medicare would have paid 80 percent of the charges in the private sector). Since all payments from Medigap carriers are applied first to the veteran's debt, the $6 payment is applied to the veteran's $45.80 copayment and a bill for the $39.80 balance is released to the veteran. The third-party debt is contract adjusted to zero.

e. **Example 5.** An insured Medicare-eligible veteran has an outpatient visit and receives a prescription during that visit. A third-party bill is established in the amount of $229. The veteran's outpatient copayment charge of $45.80 and prescription copayment of $2 are placed on hold pending receipt of the reimbursement from the insurance carrier.

(1) Reimbursement is received from the carrier in the amount of $45.80. This payment is 20 percent of the billed outpatient charge and does not include any reimbursement for the prescription copayment as there was no prescription coverage in the policy.

(2) The copayment charges are released to the accounts receivable package. Since the veteran is Medicare-eligible, and the coverage supplements Medicare, the entire $45.80 payment is applied to the veteran's outpatient copayment. Since application of the entire reimbursement to the veteran's debt does not eliminate that debt, a bill for the outstanding amount (i.e., the $2.00 prescription copayment charge) is released to the veteran for payment. The third-party receivable is contract adjusted to zero.

f. **Example 6.** An insured Medicare-eligible veteran with a supplemental policy that covers medication (not covered by Medicare) receives a refill of a prescription. The carrier is billed the medication charge of $25 and a bill for the veteran's $2 copayment is generated and placed on hold pending reimbursement from the carrier. Reimbursement is received in the amount of $20 representing 80 percent of VA's bill. Since the coverage in question is not supplemental to Medicare, it is applied to the veteran's obligation in the same fashion as reimbursements from non-Medigap carriers. The veteran is entitled to an 80 percent credit to the prescription copayment debt.

ATTACHMENT B

APPLICATION OF PAYMENTS RECEIVED FROM INSURED VETERANS' NON-MEDIGAP HEALTH PLANS TO THEIR VA COPAYMENT DEBTS

The following provides procedural instructions and guidance on applying third-party reimbursement to copayment obligations of veterans who are presumed ineligible for Medicare (under age 65 and not disabled) and, therefore, covered by third-party health plans which neither supplement nor coordinate plan benefits with the Medicare program.

1. Non-Medigap reimbursements should be applied to the insured veteran's Department of Veterans Affairs (VA) copayment debt, after subtracting any deductibles or copayments imposed under the veteran's health plan coverage, in the same percentage as corresponds to the plan's liability for VA's charges.

2. If application of the third-party receivable to a veteran's VA copayment debt does not extinguish the debt for that episode of care, any open balance remains the veteran's responsibility and will be billed.

3. After appropriately crediting the third-party reimbursement to the first-party debt (veteran's VA copayment), any remaining reimbursement balance will be applied to the third-party receivable. A contract adjustment will be used to reduce the outstanding balance of the third-party receivable to zero, and the bill will be closed.

4. To avoid unnecessary billing, facilities will, to the extent supported by the Integrated Billing software, place means test charges on hold for a period not to exceed 90 days (see par. 4 of the basic directive).

5. In principle, third-party plan reimbursement for medication will be applied to the insured veteran's prescription copayment(s) in the same manner as outlined above for other VA copayments. In practice, however, it is likely that medication copayments imposed under the plan will equal or exceed the veteran's VA copayment debt. Therefore, the existence of such plan-imposed copayments first should be determined since, if found to exist, further consideration of applying a medication reimbursement to the veteran's debt will be unnecessary. (The same situation would apply in the case of unmet plan deductibles that exceed VA's prescription copayment(s)). In a case where a veteran has no medication coverage, the veteran remains responsible for the entire VA prescription copayment.

6. **Non-Medigap Examples.** For illustration purposes in the following examples, except as noted, the fiscal year (FY) 98 billing rates and copayment rates were used. In all of these examples, the veteran is presumed ineligible for Medicare (under age 65 and not disabled) and, therefore, covered by a third-party health plan which neither supplements nor coordinates plan benefits with the Medicare program.

a. **Example 1.** A veteran is treated as an inpatient under medical service for 10 days. The health plan is billed for 10 days of medical care at $1,208 per day ($12,080), and a third-party receivable is established for the billed amount. For that episode of care, the veteran incurs a VA inpatient copayment debt of $764, in addition to an inpatient per diem debt of $100 ($10 x 10 days), for a total VA obligation of $864 for that episode of care. Since the veteran has health coverage, the veteran's VA debt of $864 is placed on hold pending receipt of reimbursement or denial from the health plan.

(1) In this example, assume that the deductibles imposed in the coverage were satisfied prior to the VA episode of care. Reimbursement is received in the amount of $9,664, representing 80 percent of VA's bill. Since the health plan paid 80 percent of VA's charges, 80 percent of the veteran's $864 debt will be satisfied from that recovery.

(2) On that basis, a credit of $691.20 ($864 x 80 percent =$691.20) will be applied against the veteran's VA debt, reducing that obligation to $172.50, which remains the veteran's responsibility. A bill in that amount will be released to the veteran. The balance of the carrier's payment ($8,972.80) is applied to the third-party receivable and the remainder of that third-party debt is contract adjusted to zero.

b. **Example 2.** Assume the same facts as set out in preceding example 1 (Att. B, subpar 6a), but in this instance, a deductible of $300 was imposed and deducted by the plan prior to its payment of VA's bill. After reducing its obligation by the $300 in question, the health plan paid 80 percent of the balance of VA's bill, or $9,424 ($12, 080 minus $300=$11,780 x 80 percent = $9,424).

(1) Under these circumstances, so much of the veteran's VA copayment obligation for that episode of care corresponding to the amount not covered by the plan remains the veteran's responsibility. Therefore, before applying any credit from that third-party receivable to the veteran's total debt, the amount not covered under the policy (in this example $300) remains the veteran's obligation.

(2) In addition, since the carrier paid 80 percent of VA's bill after deducting the $300 not covered under the policy, 80 percent of the veteran's remaining VA debt of $564 should be satisfied from that reimbursement. This results in a $451.20 credit ($564 x 80 percent = $451.20), which reduces that portion of the veteran's debt to $112.80 ($564 minus $451.20 = $112.80). That reduced amount plus the $300 not covered by the plan represents the veteran's VA debt for that episode of care ($412.80). A bill in that amount will be released to the veteran. The balance of the carrier's payment ($8,972.80) is applied to the third-party receivable, and the remainder is contract adjusted to zero.

c. **Example 3.** A veteran receives VA outpatient treatment. A third-party bill is established in the amount of $229. The veteran's VA outpatient copayment charge of $45.80 is placed on hold pending receipt of reimbursement from the plan. In this instance, assume that the deductible under the policy has been satisfied prior to the VA episode of care. Reimbursement is received from the plan in the amount of $183.20, representing 80 percent of VA's outpatient charge. Since the plan paid 80 percent of the billed amount, 80 percent of that veteran's VA

copayment bill will be satisfied from that reimbursement, resulting in a credit of $36.64 for that episode of care. A bill for $9.16 will be released to the veteran. After crediting the veteran's debt, the balance of the reimbursement ($146.56) is applied to the third-party receivable and the remainder of the third-party debt is contract adjusted to zero.

d. **Example 4.** Assume the same facts as in preceding example 3 (Att. B0, subpar. 6c), but in this example, the veteran's plan imposes a $10 copayment for every outpatient visit. After deducting the $10 copayment imposed under the policy, reimbursement is received from the insurer in the amount of $175.20, representing 80 percent of the balance of VA's bill. The $10 copayment imposed by the coverage remains the veteran's responsibility and is not subject to reimbursement credit. Consequently, the veteran is entitled to a credit of proceeds against 80 percent of $35.80, the portion of the veteran's VA debt remaining after excluding the $10 plan copayment. The resulting credit ($28.64) reduces that portion of the veteran's debt to $7.16 which, when added to the veteran's VA debt excluded from reimbursement credit (the $10 plan copayment) yields a total amount due from the veteran of $17.56. A bill in that amount will be released to the veteran to cover the unpaid portion of the veteran's obligation for that episode of care. The balance of the plan's payment ($146.56) is applied to the third-party receivable and the remainder of the third-party debt is contract adjusted to zero.

e. **Example 5.** An insured veteran who is not eligible for Medicare has an outpatient visit. In this example, assume that VA's proposed "reasonable charges" regulation has been implemented. Following treatment, a bill is issued to the veteran's health plan for $30. The veteran's copayment charge of $45.80 is placed on hold pending receipt of reimbursement from the plan. Reimbursement is received from the plan for the full $30 of VA's bill. Since the plan reimbursed at 100 percent of the allowable charges under its coverage, the reimbursement is applied toward a corresponding 100 percent of the veteran's copayment debt. The veteran's outpatient copayment is credited with $30 and a bill for the balance of $15.80 is released to the veteran. The third-party debt is contract adjusted to zero.

f. **Example 6.** Pharmacy Service mails a prescription refill to a veteran. Since the hospital believes that the veteran may have a policy with medication coverage, a claim is submitted to the insurance carrier for the prescription refill charge of $25. The veteran's prescription copayment charge of $2.00 is placed on hold. Notification is received from the insurance carrier that the veteran does not have prescription coverage and, therefore, the third-party claim is denied. The third-party receivable should be cancelled. The prescription copayment charge of $2 is released to the veteran.

g. **Example 7.** Assume the same facts as in preceding example #6 (Att. B, subpar. 6f), but in this instance, the veteran has medication coverage that pays 80 percent of the charge after deducting a $5 copayment for each prescription. The plan makes reimbursement in the amount of $16 ($20 x 80 percent =$16). Since the plan's $5 copayment, which remains the veteran's responsibility, exceeds the amount of the veteran's VA copayment ($2), a bill for the latter is released to the veteran. The plan's entire payment is applied to the third-party receivable and the remainder of the third-party debt is contract adjusted to zero.